

**IN THE  
UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANTS: Neil Roseman, Josh Petersen, Greg Linden, Ryan Snodgrass, and Gus Lopez  
SERIAL NO.: 09/280,292  
FILING DATE: March 29, 1999  
TITLE: Method and System for Authenticating Uses When Conducting Commercial Transactions Using a Computer  
EXAMINER: Richard C. Weisberger  
GROUP ART UNIT: 3693  
ATTY. DKT. NO.: 23984-13949

**CERTIFICATE OF ELECTRONIC (EFS-WEB) TRANSMISSION**

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with 37 C.F.R. § 1.8(a)(i)(C) from the **Pacific Time Zone** of the United States on the local date shown below.

Dated: August 16, 2010

By: /Jennifer R. Bush/

Jennifer R. Bush, Reg. No. 50,784

COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

**REQUEST FOR REFUND**

Sir:

On August 25, 2009, Applicants filed a Request for Continued Examination (RCE) and a three month extension of time with the USPTO in response to the Final Office Action dated February 25, 2009 ("Final Office Action" herein), to prevent abandonment of the above-captioned application. A copy of the RCE and fees paid is attached as Exhibit A. Applicants now request a refund of the RCE and extension fees based on the facts presented below.

## **FACTS AND TIMELINE FOR REFUND REQUEST**

On March 18, 2009, Applicants' representative Jennifer Bush first contacted Examiner Richard Weisberger regarding deficiencies in the Final Office Action. Specifically, the fact that claims 122, 123, 127-134, and 139 were not addressed in the Final Office Action. Applicants' representative further communicated with the Examiner by phone on April 2, April 10, and May 8, and by email on April 10, May 7, June 8, June 16 (with copy to SPE James Kramer).

In a message from the Examiner on May 8, 2009, the Examiner agreed to issue a new action within a week's time. The content of the message from the Examiner was included in the Interview Summary filed June 8, 2009, attached as Exhibit B.

Further communications between Examiner Weisberger and Applicants' representative took place on July 20 (also with SPE Kramer on the same date), July 28, August 3, August 4, August 13 (formal interview), August 19, and August 25. During the July and August communications, the Examiner again promised a new action (July 20 email, attached at Exhibit C), and later suggested that the case maybe close to allowance if certain amendments were made, and Applicants' representative worked with the Examiner to try to come to agreement on such an amendment.

As of August 19, only six days remained until the final date by which Applicants need to reply to prevent abandonment of the application, and Examiner Weisberger had not provided formal indication as to whether Applicants' suggested claim amendments would place the case into condition for allowance. As a result, Applicants' representative requested that the previously promised replacement action be submit, and Examiner Weisberger agreed to do so.

Examiner Weisberger told Applicants' representative on August 25, 2009 that his replacement action was showing up in the PACE system, however, because Applicants could not see it in PAIR, and it had been promised several times before and not provided, Applicants were forced to submit a reply, with fees for a three month extension of time and RCE. The Examiner's submission of the replacement action never showed up in PAIR, which Examiner Weisberger indicates is because it was overridden by the RCE filing, however, it should be visible to the Petitions Branch via PACE.

On September 8, 2009, Examiner Weisberger mailed an Interview Summary indicating many of the facts recited above.

After the RCE was filed, the Examiner allowed the case per the amendment discussed. That it was the same amendment is evidenced by an email from the Examiner to Applicants' representative dated April 26, 2010, attached as Exhibit D. The Notice of Allowance, dated May 17, 2010, is attached as Exhibit E.

Thus, since the Final Office Action failed to address 11 claims, had a replacement action was promised several times but not delivered, and attempted to work with the Examiner on an amendment, yet were required to submit an RCE and three month extension of time fees to avoid abandonment through no fault of their own, Applicants believe a refund is appropriate.

Due to USPTO error, a refund is respectfully requested.

Respectfully Submitted,

Date: August 16, 2010

/Jennifer R. Bush/  
Attorneys for Assignee  
Jennifer R. Bush, Attorney of Record  
Registration No. 50,784  
FENWICK & WEST LLP  
801 California Street  
Mountain View, CA 94041  
Phone: (650) 335-7213  
Fax: (650) 938-5200

# **REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL** **(Submitted Only via EFS-Web)**

Application Number	09/280,292	Filing Date	1999-03-29	Docket Number (if applicable)	23984-13949	Art Unit	3693
First Named Inventor	Neil Roseman			Examiner Name	Richard Weisberger		

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

## **SUBMISSION REQUIRED UNDER 37 CFR 1.114**

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_

☐ Other \_\_\_\_\_

☒ Enclosed

☒ Amendment/Reply

☐ Information Disclosure Statement (IDS)

☐ Affidavit(s)/ Declaration(s)

☐ Other \_\_\_\_\_

## **MISCELLANEOUS**

☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months \_\_\_\_\_  
(Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

☐ Other \_\_\_\_\_

## **FEES**

**The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.**

☒ The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No 192555

## **SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

☒ Patent Practitioner Signature

☐ Applicant Signature

Signature of Registered U.S. Patent Practitioner			
Signature	/Jennifer R. Bush/	Date (YYYY-MM-DD)	2009-08-25
Name	Jennifer R. Bush	Registration Number	50784

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450.

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

## EXHIBIT A (cont.)

Electronic Patent Application Fee Transmittal				
Application Number:		09280292		
Filing Date:		29-Mar-1999		
Title of Invention:		METHOD AND SYSTEM FOR AUTHENTICATING USERS WHEN CONDUCTING COMMERCIAL TRANSACTIONS USING A COMPUTER		
First Named Inventor/Applicant Name:		NEIL ROSEMAN		
Filer:		Jennifer R. Johnson		
Attorney Docket Number:		23984-13949		
Filed as Large Entity				
Utility under 35 USC 111(a) Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Extension - 3 months with \$0 paid	1253	1	1110	1110

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
<b>Miscellaneous:</b>				
Request for continued examination	1801	1	810	810
<b>Total in USD (\$)</b>				<b>1920</b>

EXHIBIT A (cont.)



## Electronic Acknowledgement Receipt

<b>EFS ID:</b>	5952087
<b>Application Number:</b>	09280292
<b>International Application Number:</b>	
<b>Confirmation Number:</b>	5547
<b>Title of Invention:</b>	METHOD AND SYSTEM FOR AUTHENTICATING USERS WHEN CONDUCTING COMMERCIAL TRANSACTIONS USING A COMPUTER
<b>First Named Inventor/Applicant Name:</b>	NEIL ROSEMAN
<b>Customer Number:</b>	00758
<b>Filer:</b>	Jennifer R. Johnson
<b>Filer Authorized By:</b>	
<b>Attorney Docket Number:</b>	23984-13949
<b>Receipt Date:</b>	25-AUG-2009
<b>Filing Date:</b>	29-MAR-1999
<b>Time Stamp:</b>	20:38:17
<b>Application Type:</b>	Utility under 35 USC 111(a)

## Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$ 1920
RAM confirmation Number	4531
Deposit Account	192555
Authorized User	

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

Charge any Additional Fees required under 37 C.F.R. Section 1.16 (National application filing, search, and examination fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)

# EXHIBIT A (cont.)

Charge any Additional Fees required under 37 C.F.R. Section 1.19 (Document supply fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.20 (Post Issuance fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)

## File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Request for Continued Examination (RCE)	13949_US_RCE.pdf	698525 6c10f329c5e243c5899621ec1986303c029e2f19	no	3
Warnings:					
Information:					
2		13949_US_Amendment_to_FOA.pdf	127535 265c3934247876b5d8824106a44ccdf9a83508	yes	24
	Multipart Description/PDF files in .zip description				
	Document Description		Start	End	
	Amendment Submitted/Entered with Filing of CPA/RCE		1	1	
	Claims		2	19	
	Applicant Arguments/Remarks Made in an Amendment		20	24	
Warnings:					
Information:					
3	Fee Worksheet (PTO-875)	fee-info.pdf	32394 9199c75b11dffb463d5ce9980a7e48024be778a1	no	2
Warnings:					
Information:					
Total Files Size (in bytes):			858454		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

**New Applications Under 35 U.S.C. 111**

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

**National Stage of an International Application under 35 U.S.C. 371**

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

**New International Application Filed with the USPTO as a Receiving Office**

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

EXHIBIT A (cont.)

# EXHIBIT B

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Neil Roseman, Josh Petersen, Greg Linden, Ryan Snodgrass, and Gus Lopez  
SERIAL NO.: 09/280,292  
FILING DATE: March 29, 1999  
TITLE: Method and System for Authenticating Uses When Conducting Commercial Transactions Using a Computer  
EXAMINER: Richard C. Weisberger  
GROUP ART UNIT: 3693  
ATTY. DKT. NO.: 23984-13949

### CERTIFICATE OF ELECTRONIC (EFS-WEB) TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with 37 C.F.R. § 1.8(a)(1)(C) from the Pacific Time Zone of the United States on the local date shown below.

Dated: June 8, 2009

By: Jennifer R. Bush

Jennifer R. Bush, Reg. No. 50,784

### STATEMENT OF SUBSTANCE OF INTERVIEW

Sir:

On May 8, 2009, Examiner Richard C. Weisberger left a telephone message for Applicants' representative Jennifer Bush with respect to this case, with the following text:

"Hi Jennifer, this is Richard Weisberger from the U.S. Patent Office. I'll get an action out to you early next week, we'll say no later than Tuesday, I'll have that finished up. Alright, thanks. Have a nice weekend."

However, as of today's date, PAIR is not showing a new action.

## EXHIBIT B (cont.)

The Examiner is invited to contact the undersigned in order to advance the prosecution of this application.

Respectfully submitted,  
Neil Roseman et al.

Dated: June 8, 2009

By: /Jennifer R. Bush/  
Jennifer R. Bush, Reg. No.: 50,784  
Fenwick & West LLP  
Silicon Valley Center  
801 California Street  
Mountain View, CA 94041  
Tel.: (650) 335-7213  
Fax.: (650) 938-5200

## Electronic Acknowledgement Receipt

<b>EFS ID:</b>	5473814
<b>Application Number:</b>	09280292
<b>International Application Number:</b>	
<b>Confirmation Number:</b>	5547
<b>Title of Invention:</b>	METHOD AND SYSTEM FOR AUTHENTICATING USERS WHEN CONDUCTING COMMERCIAL TRANSACTIONS USING A COMPUTER
<b>First Named Inventor/Applicant Name:</b>	NEIL ROSEMAN
<b>Customer Number:</b>	00758
<b>Filer:</b>	Jennifer R. Johnson
<b>Filer Authorized By:</b>	
<b>Attorney Docket Number:</b>	23984-13949
<b>Receipt Date:</b>	08-JUN-2009
<b>Filing Date:</b>	29-MAR-1999
<b>Time Stamp:</b>	18:07:07
<b>Application Type:</b>	Utility under 35 USC 111(a)

## Payment information:

Submitted with Payment		no			
File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Applicant summary of interview with examiner	13949_US_Interview_Summary_.pdf	97503	no	2
			77a25d1410b8c176b27f5a48101cc94860a4d09c		
Warnings:					
Information:					

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

**New Applications Under 35 U.S.C. 111**

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**National Stage of an International Application under 35 U.S.C. 371**

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

**New International Application Filed with the USPTO as a Receiving Office**

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

# EXHIBIT C

Jennifer Bush

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**From:** Weisberger, Richard [Richard.Weisberger@USPTO.GOV]  
**Sent:** Monday, July 20, 2009 11:47 AM  
**To:** Jennifer Bush  
**Subject:** RE: 09/280,292 (o/r 13949)  
**Attachments:** image001.gif; image002.gif; image003.gif; image004.gif

I apologize for letting this slip through. I have it for you this week.

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**From:** Jennifer Bush [mailto:JBush@fenwick.com]  
**Sent:** Tuesday, June 16, 2009 11:21 PM  
**To:** Weisberger, Richard  
**Cc:** Kramer, James; Michelle Nicely  
**Subject:** RE: 09/280,292 (o/r 13949)  
**Importance:** High

RESPONSE REQUESTED

Examiner Weisberger –

Following up yet again. As you can see below, I've had several unreturned emails, and countless unreturned phone calls. Our last telephone interaction was on May 8, 2009, when you indicated to me by voicemail that you would issue a new action in the case no later than Tues, May 12. On June 8, I filed an interview summary to this effect since my emails and phone calls have been unreturned.

Please contact me at your earliest convenience to let me know when I can expect the replacement action.

Thank you,  
Jennifer

**JENNIFER R. BUSH**

Fenwick & West LLP

Associate, IP Group

☎ (650) 335-7213

☎ (650) 938-5200

✉ jbush@fenwick.com

[Jennifer's Webpage](#)

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**From:** Jennifer Bush  
**Sent:** Monday, June 08, 2009 12:25 PM  
**To:** 'richard.weisberger@uspto.gov'  
**Cc:** Michelle Nicely  
**Subject:** RE: 09/280,292 (o/r 13949)  
**Importance:** High

RESPONSE REQUESTED

Examiner Weisberger –

Following up again. Your VM of 5/8 said you'd mail this out by 5/12, and I've been trying to resolve this since April. I'm just trying to discern what is the status.

Thank you,  
Jennifer

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**From:** Jennifer Bush  
**Sent:** Thursday, June 04, 2009 12:32 PM  
**To:** 'richard.weisberger@uspto.gov'  
**Cc:** Michelle Nicely  
**Subject:** RE: 09/280,292 (o/r 13949)  
**Importance:** High



Checking in on this again. I left a VM earlier this week as well. Can I get a status update? Thanks.

**From:** Jennifer Bush  
**Sent:** Thursday, May 07, 2009 12:08 PM  
**To:** 'richard.weisberger@uspto.gov'  
**Cc:** Michelle Nicely  
**Subject:** RE: 09/280,292 (o/r 13949)  
**Importance:** High  
 RESPONSE REQUESTED

Examiner Weisberger –

Just following up on the item below. I did not hear back from you, and I do not see a new office action listed in PAIR. Please give me a call to discuss if I do not reach you by phone today.

Thank you,  
 Jennifer

**From:** Jennifer Bush  
**Sent:** Friday, April 10, 2009 2:22 PM  
**To:** 'richard.weisberger@uspto.gov'  
**Cc:** Linda McGuire  
**Subject:** 09/280,292 (o/r 13949)  
 Examiner Weisberger –

Thank you for our telephone message. It would be better if you could issue a new action adding the missing claims. It seems that you are saying it wouldn't be much work since you believe the limitations are in the claims that were discussed.

My client is not keen on my responding to anything not specifically rejected, so if I were to respond to the pending FOA, I'd have to allege it is improperly final since some claims were not addressed. I don't really think that helps either of us, so if you would send a new action that would probably be best.

Feel free to give me a call if you want to discuss this matter further.

Thank you,  
 Jennifer

**Fenwick**  
 FENWICK & WEST LLP  
**JENNIFER R. BUSH**  
 Fenwick & West LLP  
 Associate, IP Group  
 ☎ (650) 335-7213  
 ☎ (650) 938-5200  
 ✉ jrbush@fenwick.com  
[Jennifer's Webpage](#)

**THIS MESSAGE AND ANY ATTACHMENTS:** To ensure compliance with requirements imposed by the FBI, we have quarantined any and all e-mails for which we have received information indicating that they may contain information that is exempt from disclosure under the Freedom of Information Act. This e-mail and any attachments are for your personal use only and may contain information that is confidential, privileged, or otherwise exempt from disclosure under the Freedom of Information Act. If you are not the named addressee of this e-mail, you should not disseminate, distribute, or act on the information contained in this e-mail. If you have received this e-mail in error, please notify the sender immediately by e-mail. This e-mail and any attachments are not to be distributed outside of your organization.

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**ATTENTION:** This e-mail and any attachments may contain information that is confidential, privileged, or otherwise exempt from disclosure under the Freedom of Information Act. If you are not the named addressee of this e-mail, you should not disseminate, distribute, or act on the information contained in this e-mail. If you have received this e-mail in error, please notify the sender immediately by e-mail. This e-mail and any attachments are not to be distributed outside of your organization.

# EXHIBIT D

Jennifer Bush

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**From:** Weisberger, Richard [Richard.Weisberger@USPTO.GOV]  
**Sent:** Monday, April 26, 2010 1:21 PM  
**To:** Jennifer Bush  
**Subject:** RE: Serial No. 09/280,292 (o/r 13949) - incorrect status on PAIR

We are all set with our previous amendment. Prepared allowance today.

---

**From:** Jennifer Bush [mailto:JBush@fenwick.com]  
**Sent:** Monday, April 26, 2010 2:26 PM  
**To:** Weisberger, Richard  
**Cc:** Michelle Nicely  
**Subject:** RE: Serial No. 09/280,292 (o/r 13949) - incorrect status on PAIR

Just checking in since you indicated you planned to look at this last week. Let me know if you want to discuss.

Thank you,  
Jennifer

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**From:** Weisberger, Richard [mailto:Richard.Weisberger@USPTO.GOV]  
**Sent:** Friday, April 16, 2010 12:20 PM  
**To:** Jennifer Bush  
**Subject:** RE: Serial No. 09/280,292 (o/r 13949) - incorrect status on PAIR

Jennifer,

Don't really need anything from you at the moment. The case is on my amended docket and due this next week. Ill update the search and if anything relevant comes up, i'll call you next week to discuss. Otherwise, i will advance the case.

Richard

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**From:** Jennifer Bush [mailto:JBush@fenwick.com]  
**Sent:** Thursday, April 15, 2010 5:19 PM  
**To:** Weisberger, Richard  
**Subject:** RE: Serial No. 09/280,292 (o/r 13949) - incorrect status on PAIR

i'm open 1-3 pm, or after 4 (Eastern). Let me know what you want me to prepare (if anything).

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**From:** Weisberger, Richard [mailto:Richard.Weisberger@USPTO.GOV]  
**Sent:** Thursday, April 15, 2010 6:51 AM  
**To:** Jennifer Bush  
**Subject:** RE: Serial No. 09/280,292 (o/r 13949) - incorrect status on PAIR

Free monday?

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**From:** Jennifer Bush [mailto:JBush@fenwick.com]  
**Sent:** Wednesday, April 14, 2010 8:48 PM  
**To:** Weisberger, Richard  
**Cc:** Kramer, James; Michelle Nicely; Rajiv Patel  
**Subject:** RE: Serial No. 09/280,292 (o/r 13949) - incorrect status on PAIR

## EXHIBIT D (cont.)

Examiner Weisberger -

Checking in. I've not heard from you since Jay's email below and my voicemail left thereafter (alerting you of the IDS filed 3/31 and asking to set up a time to discuss). Is there an update?  
Can we get something on the calendar?

Thank you,  
Jennifer

On Mar 29, 2010, at 6:17 AM, "Kramer, James" <[James.Kramer@USPTO.GOV](mailto:James.Kramer@USPTO.GOV)> wrote:

Jennifer - the fix has been made and the case has been returned to the examiner for action.

Richard, please get in touch with Jennifer some time tomorrow and let her know when she can expect something from you.

Thanks  
Jay

---

**From:** Jennifer Bush [mailto:[JBush@fenwick.com](mailto:JBush@fenwick.com)]  
**Sent:** Saturday, March 27, 2010 12:52 AM  
**To:** Kramer, James  
**Cc:** Meera Park; Michelle Nicely; Weisberger, Richard  
**Subject:** RE: Serial No. 09/280,292 (o/r 13949) - incorrect status on PAIR

Jay --

Didn't hear from you and didn't get a chance to follow up earlier today. Perhaps you can follow up on Monday?

Thanks in advance.

Jennifer

---

**From:** Kramer, James [mailto:[James.Kramer@USPTO.GOV](mailto:James.Kramer@USPTO.GOV)]  
**Sent:** Thursday, March 25, 2010 5:09 PM  
**To:** Jennifer Bush  
**Subject:** RE: Serial No. 09/280,292 (o/r 13949) - incorrect status on PAIR

as soon as I hear back from the troubleshooter (should be first thing tomorrow) I'll send both you and Richard a final heads up that the case has been fixed.

At that point it should show up as fixed in PAIR.

If you don't hear back by tomorrow afternoon shoot me and email and I'll follow up. I really don't want to see an 09 series case that appears (at least from the two interview summaries) to be close to allowance, to slip through the cracks.

Jay

---

**From:** Jennifer Bush [mailto:JBush@fenwick.com]  
**Sent:** Thursday, March 25, 2010 8:05 PM  
**To:** Kramer, James  
**Cc:** Weisberger, Richard; Meera Park; Michelle Nicely  
**Subject:** RE: Serial No. 09/280,292 (o/r 13949) - incorrect status on PAIR

I appreciate the help, and understand re end of quarter.

Thanks again.

Jennifer

---

**From:** Kramer, James [mailto:James.Kramer@USPTO.GOV]  
**Sent:** Thursday, March 25, 2010 5:03 PM  
**To:** Jennifer Bush  
**Cc:** Weisberger, Richard; Meera Park; Michelle Nicely  
**Subject:** RE: Serial No. 09/280,292 (o/r 13949) - incorrect status on PAIR

I have sent a note off to our PALM/PAIR troubleshooter to have the Non-final converted to an Interview Summary. This will put the case back on the examiner's docket. At that point Richard will pick up the case, and I'm hoping work with you to get this case resolved.

As a final note, I'd like to thank you for your patience in dealing with this issue. This week is the end of the quarter and Richard and I have been busy wrapping up the quarter and helping the juniors in our art unit wrap up their quarters. As of next week, the new quarter begins and Richard will have more time to help you with this case.

Thanks and have a great weekend

Jay

---

**From:** Jennifer Bush [mailto:JBush@fenwick.com]  
**Sent:** Thursday, March 25, 2010 7:01 PM  
**To:** Kramer, James  
**Cc:** Weisberger, Richard; Meera Park; Michelle Nicely  
**Subject:** Serial No. 09/280,292 (o/r 13949) - incorrect status on PAIR

Jay --

We've been trying to rectify this problem with the status as listed in PAIR for this case (says OA was issued in September, but it really was an interview summary). We (Meera Park, paralegal) has made several calls to Examiner Weisberger and the HSLJE (per his recommendation), but still no resolution.

Can you help push this forward?

Thanks in advance,

Jennifer

<image001.gif>

**JENNIFER R. BUSH**

Fenwick & West LLP  
Associate, IP Group

<image002.gif> (650) 335-7213

<image003.gif> (650) 938-5200

<image004.gif> jrbush@fenwick.com

[Jennifer's Webpage](#)

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**From:** Meera Park  
**Sent:** Wednesday, March 24, 2010 2:30 PM  
**To:** Jennifer Bush  
**Cc:** Meera Park  
**Subject:** Amazon 13949 US - incorrect status on PAIR

Hi Jennifer,

As we discussed earlier this week, I called the examiner to follow up with him regarding the status of the application. I was unable to reach him so I left another message. I will try sending him an email as well.

<image001.gif>

**MEERA PARK**



# EXHIBIT E

## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

### NOTICE OF ALLOWANCE AND FEE(S) DUE

758 7590 05/17/2010  
FENWICK & WEST LLP  
SILICON VALLEY CENTER  
801 CALIFORNIA STREET  
MOUNTAIN VIEW, CA 94041

RECEIVED  
PATENT DOCKETING  
Fenwick & West  
1:53 pm, May 20, 2010

EXAMINER	
WEISSBERGER, RICHARD C	
ART UNIT	PAPER NUMBER
3695	
DATE MAILED: 05/17/2010	

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/280,292	03/29/1999	NIEL ROSEMAN	21984-13949	5547

TITLE OF INVENTION: METHOD AND SYSTEM FOR AUTHENTICATING USERS WHEN CONDUCTING COMMERCIAL TRANSACTIONS  
USING A COMPUTER

APPL. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEES DUE	DATE DUE
nonprovisional	NO	\$1510	\$0	\$0	\$1510	08/17/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

#### HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

## PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail

Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
or Fax (571)-273-2885

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "PFE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

758 7590 05/17/2010

FENWICK & WEST LLP  
SILICON VALLEY CENTER  
801 CALIFORNIA STREET  
MOUNTAIN VIEW, CA 94041

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/280,292	03/29/1999	NELI ROSEMAN	21984-13949	5547

TITLE OF INVENTION: METHOD AND SYSTEM FOR AUTHENTICATING USERS WHEN CONDUCTING COMMERCIAL TRANSACTIONS USING A COMPUTER

APPL. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEES DUE	DATE DUE
nonprovisional	NO	\$1510	\$0	\$0	\$1510	08/17/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
WEISBERGER, RICHARD C	3693	705 027000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication for "Fee Address" Indication form PTO/OA-47, Rev. 03-02, or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1  
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2  
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.111. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
☐ Advance Order - # of Copies

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number.

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(4).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent, or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Date

Typed or printed name

Registration No.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 17 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/280,292

03/29/1999

NEH. ROSEMAN

23984-13949

5547

758

7590

05/17/2010

FENWICK & WEST LLP  
 SILICON VALLEY CENTER  
 801 CALIFORNIA STREET  
 MOUNTAIN VIEW, CA 94041

EXAMINER

WEISBERGER, RICHARD C

ART UNIT

PAPER NUMBER

3693

DATE MAILED: 05/17/2010

**Determination of Patent Term Extension under 35 U.S.C. 154 (b)**

(application filed after June 7, 1995 but prior to May 29, 2000)

The Patent Term Extension is 0 day(s). Any patent to issue from the above-identified application will include an indication of the 0 day extension on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.



**Notice of Allowability****Application No.**

09/280,292

**Applicant(s)**

ROSEMAN ET AL.

**Examiner**

Richard C. Weisberger

**Art Unit**

3693

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERIT IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/31/2010.
2. ☒ The allowed claim(s) is/are 44-45, 49-58, 71-72, 74-84 and 122-123, 127-134 and 139.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some\* c) ☐ None of the:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
 (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
 (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
 Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08).  
 Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413).  
 Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

/Richard C Weisberger/  
 Primary Examiner, Art Unit 3693

## EXHIBIT E (cont.)

Application/Control Number: 09/280,292  
Art Unit: 3693

Page 2

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jennifer Bush on 5/13/2010.

The application has been amended as follows:

Previously withdrawn claims 29-43, 60-70 and 86-121 are cancelled.

/Richard C Weisberger/  
Primary Examiner, Art Unit 3693

# EXHIBIT E (cont.)

<b>Notice of References Cited</b>	Application/Control No. 09/280,292	Applicant(s)/Patent Under Reexamination ROSEMAN ET AL.	
	Examiner Richard C. Weisberger	Art Unit 3693	Page 1 of 1

## U.S. PATENT DOCUMENTS

* A B C D E F G H I J K L M	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	US-			
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## FOREIGN PATENT DOCUMENTS

* N O P Q R S T	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification

## NON-PATENT DOCUMENTS

* U V W X	Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.